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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,019	11/14/2003	Chantal Jubinville	SGI-5	1966
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DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			EXAMINER RENDON, CHRISTIAN E	
			ART UNIT	PAPER NUMBER
			3714	
			MAIL DATE	DELIVERY MODE
			04/01/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/714,019

Applicant(s)

JUBINVILLE ET AL.

Examiner

CHRISTIAN E. RENDÓN

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

This office action is in response to the amendment filed on August 27, 2007 in which applicant has amended claims 1, 8, 15, 24, 33 and 42, canceled claims 3, 10, 17, 26 and 35, and responded to claim rejections. Claims 1-2, 4-9, 11-16, 18-25, 27-34, 36-43 and 45-52 are still pending.

### ***Claim Rejections - 35 USC § 103***

**Claims 1-2, 4-9, 11-16, 18-25, 27-34, 36-43 and 45-52 rejected under 35 U.S.C. 103(a) as being unpatentable over Powerball in view of DeFrees-Parrott et al. (US 6,913,534 B2).**

1. Regarding claims 1, 5-6, 8, 12-13, 15, 19-20, 22-24, 28-29, 33, 37-38, 42, 46-47 and 51-52, the lottery game called Powerball requires a player to select five out of 53 numbers and one red ball number from 42 possible choices as the next possible winning number combination. In other words, a player picks a number of game indicia (5) out of set ranging from one to a maximum number (53) and selects a supplemental entry from a second unique set containing a maximum number of indicia that is less than the first set. Besides using large prize amounts as a means to attract players, Powerball also promotes itself as having "9 Ways to Win" transmitting an aura of great odds towards the player. A player is able to win by matching all five selected numbers plus the red number, just the five numbers, four numbers plus the red ball number or even by just matching the red ball number. Since the selection of five number and red number are considered separate games, a player is able to maximize their prize amount by matching everything; \$100,000 for matching the five numbers, a separate prize amount for matching the red ball number and a third bonus prize amount. Therefore Powerball teaches a first, second and third occurrence of a wagering game that offer prizes based on each outcome occurrences.

2. DeFrees-Parrott discloses a slot machine or terminal connected to a host computer through a network. When a player activates the lottery game (DeFrees-Parrott: col. 8, line 63), the player is

given the chance to use the interface to input their lottery numbers (DeFrees-Parrott: col. 9, line 1).

The host computer decides or randomly picks the 'winning numbers' (DeFrees-Parrott: col. 5, lines 65-66), which are compared with the player's numbers by the terminals (DeFrees-Parrott: col. 12, lines 1-3). The lottery game can be any popular lottery game offered by many states like Powerball (DeFrees-Parrott: col. 3, lines 58-62). Therefore it would have been obvious to one of ordinary skill in the art to choose Powerball as the lottery game offered by DeFrees-Parrott's terminal as a means to win a large prize (DeFrees-Parrott: col. 2, lines 1-2).

3. Regarding claims 2, 9, 16, 25, 34 and 43, DeFrees-Parrott discloses a "Quick Pick" option that allows the system to automatically choose the player's numbers (DeFrees-Parrott: col. 2, lines 60-63).

4. Regarding claims 3, 10, 17, 26 and 35, DeFrees-Parrott discloses that the terminals are able to accept a player's lottery number through the interface (DeFrees-Parrott: col. 9, line 1).

5. Regarding claim 4, 11, 18, 27, 36 and 45, in a game of Powerball a player and the computer chooses from a range of 1 to 55 numbers a maximum of 5 numbers. Even though the applicant claims a larger range of numbers, the Examiner views this limitation as mere design choice. Since a different range of numbers only changes the odds of winning, still producing a predictable outcome.

6. Regarding claims 7, 14, 21, 32, 41 and 50, DeFrees-Parrott discloses that a player has to fulfill certain predetermined conditions in order to play a progressive jackpot lottery game (DeFrees-Parrott: col. 13, line 5).

7. Regarding claims 30-31, 39-40 and 48-49, the system disclosed by DeFrees-Parrott is able to operate a variety of lottery game like Powerball (DeFrees-Parrott: col. 3, lines 58-62). Therefore the terminal is able to determine a first prize, if any, the player will receive. This decision is based on how many game indicia were matched.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTIAN E. RENDÓN whose telephone number is (571)272-3117. The examiner can normally be reached on 9 - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CHRISTIAN E RENDÓN  
Examiner  
Art Unit 3714

CER  
/XUAN M. THAI/  
Supervisory Patent Examiner, Art Unit 3714